

**RUMSON ZONING BOARD OF ADJUSTMENT  
OCTOBER 15, 2013  
MINUTES**

Chairman Conklin called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The Roll was called with the following members present: Conklin, Atwell, Wood, Blum, Seaman, Brodsky. Also present: Bernard Reilly (Board Attorney), Fred Andre (Zoning Officer), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Mr. Andre was sworn in at this time.

**Siobhan & Peter Hogan, 27 Forrest Ave.**

Chairman Conklin announced that the applicants have advised that they would not be able to come to this meeting. They will be ready to go forward in the future, and they will let the Board know when that is. Mr. Reilly advised that the Board should dismiss the application without prejudice, and the matter can be rescheduled in the future. Mrs. Seaman moved to dismiss the application without prejudice at this time, and the applicants can apply again at a future date. Dr. Wood seconded.

Roll Call Vote: Ayes – Conklin, Atwell, Wood, Blum, Seaman, Brodsky

Nays – None

Motion carried.

**Dennis & Sarah Devine, 7 Evergreen Drive**

Steven Krog, landscape architect, was sworn in, and the Board accepted his qualifications. He explained their proposal to reconfigure the driveway approved by resolution on 10/16/12. Their new proposal to install a circular driveway instead of the single driveway does not require any additional variances. The Devine's have determined that the original plan would not provide a convenient access to the front door, and the new plan provided a better ingress and egress to the road. The lot coverage is still conforming and compliant with the zoning ordinance (additional 2,452 sq. ft. – 600 sq. ft. below that allowed for the lot). It also complies with the driveway requirement.

There were no questions or comments from the public. Chairman Conklin expressed his opinion that this makes sense for this property.

Mr. Blum noted that many of the homes on the street have a similar-shaped driveway.

Mr. Brodsky moved to approve the application, and Dr. Wood seconded.

Roll Call Vote: Ayes – Conklin, Atwell, Wood, Blum, Seaman, Brodsky

Nays – None

Motion carried.

**Brian & Sarah Chin, 46 Bellevue Ave.**

Revised plans with corrected numbers have been submitted, as required at the last meeting. Steven Krog, landscape architect and still under oath from the last application, testified that the numbers on the revised plan were correct and somewhat different than the original plan seen by Mr. Andre. He indicated on the plan where they have made the changes.

Mr. Andre stated that the building and lot coverage numbers were off, but were still under that permitted by ordinance. He now agrees with the numbers submitted.

Mr. Reilly has prepared a resolution to include the corrected calculations, approving the request to raze the existing residence and construct a new home.

Mr. Blum asked about his suggestion regarding the sight lines, and Mr. Krog said they are definitely looking at this. Mr. Blum moved to adopt the resolution, and Mrs. Seaman seconded.

Roll Call Vote: Ayes – Conklin, Atwell, Wood, Blum, Seaman, Brodsky

Nays – None

Motion carried.

**Robert & Lynda Melloy, 35 Oakes Road**

Mr. Brodsky will not sit in on this hearing, due to a possible conflict of interest.

Brooks Von Arx, attorney, appeared on behalf of the applicants. He noted that the Melloy's are the contract purchasers of this property, which is in the R-2 Zone. There is a 1920's house on the property, which has been added on to over the years and suffered much damage during Super Storm Sandy. It borders on the lagoon, and the proposal is to raze the existing structure and construct a new home totally conforming to the ordinance. They would like to retain the pool and garage/barn on the lot. They will also be building a new pool house.

There are several variances required, but the property is 2 ½ times that required for the zone:

- Existing garage setback (15' required / 3.5' existing);
- Keeping the accessory building with no principal building existing on the lot.

Robert Susser, builder, was sworn in and stated he has appeared before the Board in the past and has also built a number of houses in Rumson. He described the property as 2.7 acres in size, with 172' on Oaks Rd. and 148' deep. There is an existing house that was 20' from the corner of the property line. They propose to raze the original house and move the new house back to improve the setbacks. They are proposing a 5,500 sq. ft. home, which is half of what could be built.

They propose a house similar to the houses on either side. They would like to retain the detached garage, which is an older structure with a lot of character. Photos (marked A-1) of the structure were shown to the Board. The only nonconformity is the garage setback, which is existing and has been for many years. This structure will not be touched by their plan. It is in good condition, and they will be improving the siding, etc. The garage provides a buffer between the neighbor's house to the pool, and Mr. Susser thinks it is a benefit to the property in its current location.

The garage has three bays and contains a walk-up loft on the south end. There is also a little tool room. The floor is brick. There is electric in the garage, but no heat or water.

The existing house is on a crawl space and had 3' of water damage to the structure. They felt the best plan would be to demolish the house, instead of renovating it. Also, their plan pulls the residence away from the neighbor and is put in a better location on the lot.

The trees on the property will remain as they are with their plan. They will only need to prune what is existing. The pool house is proposed at 945 sq. ft., and the existing pool house is 350 sq. ft. This will also house the pool equipment.

Mr. Susser again noted that they are substantially under on lot coverage, including the driveway.

Chairman Conklin asked about the age of the garage, and Mr. Von Arx said he believed the garage is over 60 years old. Mr. Susser confirmed this, because the structure is built with actual full 2 x 4's, which has not occurred in the past 50 years.

The new cabana will have a dining area and gathering place with a bathroom and dishwasher. A prior resolution for this property had a condition that the cabana not be used as a residence with a sleeping area. Mr. Susser noted no heat or stove is proposed for this structure, and Mr. Reilly said this will be a condition of approval.

Keith Mazurek, architect, was sworn in, and the Board accepted his qualifications. He was asked about the height of the cabana, and he said it is proposed to be less than 16' high.

Mr. Von Arx thinks this is a reasonable application, as the property is very large, and they are improving the existing condition with their plan which will benefit the other properties in the area.

Chairman Conklin asked about the proposed size of the garage and pool house, and Mr. Susser responded that a house of this size would typically have a three-car garage, in his opinion. A two-car garage would be a detriment to this home. It provided more comfort for the family members, etc. They want to preserve the existing garage, and he mentioned ways to possibly eliminate an existing bay, although he feels this would take away from the character of the structure and the overall property. He thinks it is a better option to allow them the variance for the six proposed garage bays, which he does not think would be a substantial detriment to the town.

Chairman Conklin noted that the board has been consistent with applications that start from scratch and try to keep them conforming. If they want to keep this garage, he asked why the pool house could not be smaller. Mr. Susser said he could make it smaller; however he noted that the house is in a flood zone and does not have a basement, and they have provided for storage over the new garage. If they were to designate that space as living space, it would change their square foot proposal, and they would then not need the variance. He understands the Board's point, but he does not think it is harmful, in this case.

Mr. Blum thinks they need to clarify if the space above the garage is usable, then it should be counted as floor area, and the plan is not accurate if they have not included this space in their calculations.

Mr. Andre said the key is that the 30% is based on the ground floor area of the principal building, and not the total floor area.

The house next door is approximately 75' to the existing garage, and a photo was shown to the Board of this area (marked A-2).

Mr. Reilly questioned the existing variances for the setback for the existing house, and Mr. Susser said it was 20', and this will be eliminated with this plan, where they propose a 41' setback.

John Brodsky, 28 Riverside Dr., speaking from the public, was sworn in and noted that this is a beautiful piece of property. He asked about the trees, and Mr. Susser again stated that no trees will be removed with their plan. Mr. Brodsky said this is a deep piece of property, and he does not have an issue with the additional garage bay. He questioned the proposed height, and Mr. Susser said the plan is based on "0" elevation, and they have a maximum of 41' permitted. The vegetation in front of the pool will not be touched, according to Mr. Susser, and he confirmed the size of this building for Mr. Brodsky. It was noted that the front of the pool house is not shown facing the pool, and this will need to be corrected. Mr. Brodsky thinks the pool house is on the large side, but it does have much vegetation.

There were no other questions or comments from the public.

Further discussion regarding the floor area numbers discovered that there were mistakes in the calculations. Chairman Conklin thinks the numbers need to be correct on the plan, and Mr. Von Arx asked them to go to the next application, allowing them to discuss the matter and come back later in the meeting. The Board members were not opposed to keeping the garage, but they had reservations about the size of the pool house. The matter will be recalled later in the meeting.

Mr. Brodsky rejoined the meeting at this time.

### **6 Pond, LLC, 6 Pond Road**

Jane Pattwell, attorney, appeared on behalf of the applicant. Martin Pattwell, Manager, Matthew Cronin, architect, and James Kennedy, engineer, were all sworn in at this time. The Board accepted the qualifications of the experts. Mr. Pattwell explained their reason for the garage addition, noting that they will be raising the house and they would like to expand the structure. The location of the pool causes them to locate the garage as shown. The side yard setbacks are pre-existing. There are other houses on the street that have garage doors that face the street.

Mr. Cronin explained their plan to lift the house and do some repairs. They had 3' of water, and they will be raising the house 5'. The garage will be at a 10.5' elevation. The house is currently 2,200 sq. ft. with a one-car attached garage. Photos of the existing property were presented (A-1) and depict a two-story house with three bedrooms and an existing screened porch. They will

be raising the house and adding a mud room, family room, larger screened porch, and covered porch and breeze way, which attaches to the two-car garage. The new garage extends into the front setback 65', with the doors facing the street at a 45 degree angle, which they feel is the best plan. The gravel driveway will be a crescent shape with an area that is wider than the 15' permitted width, providing a backup area and extra parking.

The second floor will have an extended master suite with a walk-in closet with access to storage and utility space. The room over the garage is an uninhabitable room with no access from the house. The only access is from a stair from the garage. This space is 552 sq. ft. in size, with no heat or plumbing proposed and will be used for storage only.

Mr. Kennedy presented a site plan exhibit, which is a colored rendering of the plan (A-2). Another set of photos was distributed (A-3), as well as an aerial view (A-4). He noted that Pond Rd. is a dead-end street, and all of the homes have garage doors that face Pond Rd., except for one. They are proposing landscaping in the front to minimize the appearance of the doors. He does not think this plan is out of character for the neighborhood.

The other nonconformity is for the front setback, which is proposed at 67.5' at one corner of the garage (75' required). The grading will be extended up from the street to the base of the foundation, and 3-4' of foundation will be exposed and landscaped, which is consistent with the grading with a newer home on the street. Mr. Kennedy thinks this is a better plan than having the garage in the back and will present no detriment to the neighborhood, providing a conforming garage without excess lot coverage.

There are six trees that will be removed, due to the raising of the home. These trees are in the front yard. They will be maintaining some of the existing trees (street trees), and a group near the house will need to be removed, as well as two others that are very close to the existing structure. The applicants will be adding trees and foundation plantings, and the Pattwells would agree to replace the trees that are being removed. They will provide a plan to show the board before a resolution is presented. This could be a condition of approval.

There are no plans for a pool house.

There were no questions or comments from the public.

Mrs. Seaman asked how the grading will impact the water runoff. Mr. Kennedy said that the grading will allow the drainage to run toward the water.

Mr. Blum asked about the pool, and Mrs. Pattwell said the pool is 24 years old and survived the storm. It has a liner.

Mr. Cronin was asked about the construction of the garage and if it followed the ordinance. Mr. Andre said he discussed this with the architect, and they are aware of the requirements for this structure. The area over the garage could not be used as living space, based on the design for the connection to the house.

Mr. Blum asked if they explored the feasibility of a conforming application, which would possibly require the removal of the pool, and Mr. Cronin said they did not consider this, as the pool is existing and the applicants wanted to keep it as is.

Mrs. Pattwell thinks they have a reasonable request, based on the size of the property and others in the area that have accomplished similar construction.

Mrs. Seaman thinks it is in keeping with the other homes on the street. She thinks they have done as good a job as possible building around the existing pool.

Mr. Reilly noted that the pool poses a type of hardship, in that they want to maintain this structure and work with it for their plan.

Mr. Blum thinks the variance has not been justified. He has heard what they would like to do, but not why they cannot to what the ordinance requires. He has no information regarding any technical hardship regarding relocating or replacing the pool, and he thinks it would only be a small percentage to do this, based on the overall cost of the plan.

Chairman Conklin can understand that they want to keep the pool, which was there when they purchased the house, and he mentioned other aspects that could have been explored.

Mr. Blum thinks pools have a limited life and do not last forever. He thinks it is an important factor as to whether a variance could be justified.

Chairman Conklin thinks he is asking them to move the pool, instead of providing a complying garage.

Mr. Pattwell said the pool is in good condition, and the liner was replaced a few years ago. The mechanicals were also replaced a few years ago. It is his feeling that the pool will be usable for another 10 years. He would not consider the option of moving the pool, since the variance required is not unreasonable, and the garage shields the pool from view of the street.

Chairman Conklin likes the way the garage breaks up the design. He does not think the project is that large, and the pool does present a hardship, in his opinion.

Mr. Brodsky added that if this was the only house on the street with this type of garage, it might pose a different consideration, but it is consistent with much that has been done on the street and conforms with the neighborhood. He thinks it presents more character and screens the pool.

Mrs. Seaman likes the angle of the garage and that it screens the pool. The design makes the house more interesting and will look nice on the street.

Mrs. Atwell agrees with Mrs. Seaman. She is familiar with this street and thinks this garage design will look nice, and only a small portion of it encroaches on the setback.

Dr. Wood thinks it is an attractive addition.

Mr. Brodsky moved to approve the application, subject to having a revised plan showing the trees and shrubs to be replaced and also a condition that no living space be included above the garage. Dr. Wood seconded.

Roll Call Vote: Ayes – Conklin, Atwell, Wood, Seaman, Brodsky

Nays – None

Motion carried.

**Robert & Lynda Mellow, 35 Oakes Road (Continued)**

Mr. Brodsky will again sit out on this application.

Mr. Von Arx reported that they have refined some of the numbers, and Mr. Susser explained what occurred. He apologized for his miscalculations, and reported on his revised numbers. He explained that they could increase the size of the porches or the house, so that they would not require a variance for the accessory structure (194 sq. ft.). He would rather not make the structure larger and asked that they be allowed the variance for the 194 sq. ft.

Further review by the Board showed that the numbers still do not appear to be correct. Chairman Conklin asked the Board for their opinion as to whether they would be in favor of keeping the garage, as requested, and whether the pool house is acceptable as proposed. The consensus of the Board was that they would be in favor of keeping the existing detached garage structure, but the pool house is too large and could be scaled back. Also, revised plans with corrected numbers should be submitted. It was also suggested they contact the Rumson Shade Tree Commission for advice on the grading around the trees.

The application will be carried to the next meeting with no further notice required. A resolution will be presented for a vote at that meeting.

**Approval of Minutes**

Motion was made and seconded to approve the September minutes, with corrections. Voice Vote: Ayes, unanimous.

**Resolutions**

1. **Michael & Alice Lin Fabiano, 15 Osprey Lane** – approval to construct new additions and expand residence;
2. **Michael & Hallie Thompson, 6 Nicol Terrace** – approval to install new in-ground pool and patio;
3. **Michael Cantor, 31 A-33 Ward Ave.** – approval to construct two detached garages in front yard.

Mrs. Seaman moved to adopt the resolutions, and Dr. Wood seconded.

Roll Call Vote: Ayes (Eligible) – Conklin, Atwell, Seaman, Blum, Wood, Brodsky

Nays – None

Motion carried.

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 9:40 p.m. The next meeting will be **November 19, 2013.**

Respectfully Submitted,

Patricia Murphy  
Clerk